

November 9, 2017

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: WC Docket No. 17-287
WC Docket No. 11-42
WC Docket No. 09-197**

Dear Ms. Dortch:

I respectfully submit these Ex Parte comments to the Federal Communications Commission (“FCC”) to stress the importance of the Tribal Lifeline program for residents of Tribal lands, including the Pine Ridge Indian Reservation (“PRIR”), and the very valuable role wireless resellers play in this market. I understand the FCC is considering prohibiting wireless resellers from receiving Tribal Lifeline support, which would effectively exclude them from serving Tribal lands. This would be a travesty for Indian Country because it would turn back the clock to the days of the monopoly provision of Lifeline service where consumers had but one choice for affordable telephone service. This point is highlighted by the fact that AT&T Wireless, the only facilities-based wireless Lifeline provider on the PRIR, only offers unlimited voice and text in its Tribal Lifeline offering. *See* attached AT&T Lifeline brochure. In comparison, enTouch Wireless, a wireless reseller in South Dakota, offers 1.5 GB of data to go along with unlimited voice and text. *See* attached enTouch Wireless Lifeline information. The situation is even more dire on other Reservations in South Dakota where there are no facilities-based wireless Lifeline providers on 7 of the 8 other reservations, which is typical of most Tribal lands throughout the United States. Clearly, prohibiting wireless resellers from the Tribal Lifeline market will gravely harm, not advance, universal Lifeline service on Tribal lands.

I understand some facilities-based wireless carriers, like Smith Bagley, are advocating for the exclusion of wireless resellers from the Lifeline market, but I caution the FCC on supporting private enterprises at the expense of Tribal interests. Even if some Tribal entities support the FCC, I submit the vast majority of Tribes in the United States would strongly oppose the elimination of competition from the Lifeline market. As part of its fiduciary responsibility to the Tribes, the FCC obligated to convene a “consultation” with the Tribes to address the unique challenges on Tribal lands and establish appropriate universal service policies, including policies on Tribal Lifeline and high cost support for Tribal lands. Attached is a copy of an email exchange with Nicholas Degani, Senior Counsel to Chairman Ajit Pai, on these issues.

I look forward to the FCC reconsidering its approach to Lifeline service on Tribal lands and beginning Tribal consultation with the Tribes to establish appropriate universal service policies

that benefit residents of Tribal lands, who have long suffered from the unilateral actions of the federal government.

Respectfully submitted,

Joe RedCloud

Member, Oglala Sioux Tribe

Former Chairman, Oglala Sioux Tribe Utility Commission

Decedent, Chief RedCloud

Enclosures

From: joeredcloud@burntmail.com
Subject: RE: The FCC endangers ALL of Indian Country
Date: November 3, 2017 at 4:04:40 PM EDT
To: Nicholas Degani <Nicholas.Degani@fcc.gov>

Good afternoon Nick,

I send you greetings in a good way.

Yes, I do recall meeting you while you were on the Rosebud Reservation. I recall our conversations and, interestingly enough, the comments made by Chairman Pai about working closer with Native American Tribes. It's very sad that we've not heard from the Chairman or other members of the team he brought with him that day. I'm certain you'll recall that the Chairman wanted very much to establish a good working relationship with all the Tribes in the United States. As I mentioned then, the Tribes located in the Midwest are a little different from the other Tribes for a number of reasons. The most obvious reason is that we are all "Treaty" Tribes in that our relationship with the Federal Government was created and approved by numerous votes from the United States Congress. The Chairman also mentioned that he didn't want to cause any difficulties through any unfortunate misunderstanding of our cultures. We were very pleased to hear those words coming from him.

I realize we're on the cusp of a weekend and that your time is probably quite limited. I shall endeavor to be brief here. We can, should you so desire, go over these points in greater detail as they extremely important to us. Basically stated, while I understand that there have been issues in the past where resellers have taken advantage of poor low income American citizens and that the FCC takes these issues very seriously, this most recent endeavor is what I would call draconian in its impact in Indian Country. It is, suffice it to say, like using a sledge hammer to kill a mosquito in a china shop. The efforts of the Chairman are laudable but, in my humble opinion, misdirected. This misunderstanding comes from not being more fully aware of the living conditions existent on Native American Reservations. We have decades and decades of past experience where either the Federal Government or big business has come on to our lands, gave a cursory glance at the environment, referenced some previously written reports from outside concerns and, without speaking in depth to the people living in Indian Country, established new rules and regulations designed to "fix" everything.

The answer is to provide more high cost funding for the build out of network facilities, not eliminate Lifeline support for Tribal areas. If Chairman Pai's objective is to see more broadband service on Tribal lands, then the answer is (1) dedicate more high cost funding to facilities based providers (which he says they are doing with Tribal Mobility Fund, but in reality the vast majority of Tribes, including Pine Ridge, are NOT benefitting from this fund), and (2) continue the Tribal Lifeline fund for all carriers not just facilities based carriers so that residents of Tribal lands have access to affordable services. Chairman Pa's proposal will take Lifeline funding away from Tribal areas with the promise of potentially more funding under the Tribal Mobility Fund. On one hand, Chairman Pai is taking funds away from over 200,000 Tribal residents receiving Tribal Lifeline service for affordable telephone and broadband service, and replacing it with a PROMISE that will not likely come to fruition (like Mobility Fund I).

It is important to recognize that facilities-based carriers receive enhanced Tribal Lifeline support today, so the FCC order is not going to encourage anything that is not already being

encouraged today. The only thing the order does is take funds away from the primary providers of Lifeline service — the resellers. The order will only result in less service to Tribal areas because resellers will leave the market if they receive \$9.25 per month and the facilities-based carriers receive \$34.25 per month. The order turns back time to the point where there are monopoly service providers. Looking at South Dakota, on Pine Ridge, Golden West and AT&T will be eligible for enhanced Tribal Lifeline support, but no one else. Resellers will not enter the market because they will only receive a fraction of what Golden West and AT&T receive. On 7 of the 9 Reservations in South Dakota (and most other Reservations throughout the country), the situation is even worse. There are no facilities-based wireless ETCs, so the only carrier receiving enhanced Lifeline support will be the local telephone company. These areas will never be served by a wireless Lifeline provider. AT&T, Verizon, and T-Mobile have all relinquished their ETC authority and long abandoned the Lifeline market. So, Chairman Pia is either wrong or being disingenuous by stating that the planned order will encourage service on Tribal Lands. It will actually do the exact opposite.

That's a lot for just a brief statement. I look forward to reading your response in the near future.

Most Respectfully,

Joe

On 2017-11-02 21:48, Nicholas Degani wrote:

Mr. Joe Red Cloud,

Thank you for reaching out. I believe I met you during our visit to the Rosebud Sioux Indian Reservation, and I can assure you that Chairman Pai and indeed all of us at the agency take our duty to connect those in Tribal nations seriously. That's why Chairman Pai pushed forward earlier this year with his proposal to create the Tribal Mobility Fund Phase II, which would dedicate \$340 million to the expansion of high-quality wireless broadband in Tribal areas over the next decade.

Let me start with this: I am sorry someone sent you misinformation. The paragraph you reference below does not accurately reflect the proposal that Chairman Pai has put to his colleagues. Indeed, he has specifically asked them to confirm that wireless carriers can continue to participate in the Lifeline program and receive enhanced support on rural Tribal lands. Fortunately, you can read it for yourself since he has released his proposal to the public: http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1026/DOC-347452A1.pdf.

Unfortunately, not everyone supports enhanced Tribal support being used to buildout better facilities on Tribal lands. Specifically, Chairman Pai's proposal would exclude wireless resellers—who do not hire invest in facilities on Tribal lands—from receiving enhanced Tribal support. I understand that these companies would prefer to spend this money as they see fit, but Chairman Pai thinks the priority must be reinvestment in the Tribal community.

I would welcome an opportunity to speak with you further if that would be helpful. You can reach me at (202) 418-2277.

Specifically look at paragraph 22 on the top of page 10.

The actual issue here is that the Chairman has insisted that carriers that receive enhanced Tribal subsidies use that support to reinvest in the local community and build out broadband-capable networks on Tribal lands. As you can see in footnote 57 of that same document, this is a decision that was urged on the Commission by the Confederated Tribes of the Colville Reservation; The Sovereign Councils of Hawaiian Homelands Assembly; The Affiliated Tribes of Northwest Indians; Gila River Telecom; WTA-Advocates for Rural Broadband; Smith Bagley Inc. (a wireless carrier serving the Navajo Nation in Northeast Arizona); the Coquille Indian Tribe; the Coeur D'Alene Tribe; the Organized Village of Saxman; Okhay Owingeh; Leech Lake Telecommunications; Mescalero Apache Telecom., Inc.; San Carlos Apache Telecommunications Utility; Red Lake Band of Chippewa Indians; and the Alutia Village Council. In other words, the FCC is taking very seriously the arguments of Tribes and those who build out facilities in Tribal communities—and we are heeding their call this month.

All the best,

-Nick D.

From: joeredcloud@burntmail.com

Subject: The FCC endangers ALL of Indian Country

Date: November 2, 2017 at 4:31:07 PM EDT

To: Ivan Bettleyoun <ivanb3775@gmail.com>, OSTVP Darla Black <darla@oglala.org>, Bob Bradford <bob@lakotaconsultantsinc.com>, Jon Canis <jon@canispllc.com>, Jon Canis <jon.canis@gmail.com>, Ella John Carlow <ejcarlow@hotmail.com>, Tom Casey <crashwk@hotmail.com>, Arlene Catches the Enemy <akechezenmy@gmail.com>, Maretha Champagne <Mjchampagne@hotmail.com>, E&BDC Chairman James Cross <jamescross081D@hotmail.com>, E&BDC Chairman James Cross <jamescross0810@hotmail.com>, Craig Dillon <cld@hotmail.com>, Steve Emery <steve_emery1989@hotmail.com>, Phillip Good Crow <pgoodcrow@yahoo.com>, Caroline Herron <caroline.r.herron@gmail.com>, Lyle Jack <lylejack_01@yahoo.com>, Louis Janis <loujan_55@yahoo.com>, "A. Gay Kingman" <kingmanwapato@rushmore.com>, Jason Jake Little <jasonjake.little@gmail.com>, Jane Long <jlong.ost@gmail.com>, Terry Mills <tmillsd@yahoo.com>, Ron Neiss <tuc99@gwtc.net>, Steve Pourier <sjpourier@goldenwest.net>, Tony Rogers <tonywayne@hotmail.com>, Verchele Salway <sverchele@yahoo.com>, Brandon Sazue <BrandonSazue@CrowCreekSiouxTribe.com>, Theresa Two Bulls <theresatb@oglala.org>, Waysha Whiteface <whitefacew@gmail.com>

Cc: FCC Chairman Ajit Pai <ajit.pai@fcc.gov>, FCC Commissioner Mike O'Rielly <mike.orielly@fcc.gov>, FCC Commissioner Mignon Clyburn <mignon.clyburn@fcc.gov>, FCC Chief of Staff Matthew Berry <Matthew.berry@fcc.gov>, FCC Senior Counsel Nicholas Degani <Nicholas.degani@fcc.gov>, Chief of Staff David Grossman <David.grossman@fcc.gov>

Good afternoon everyone,

I send you greetings in a good way.

I'd like you to read the message below and understand the dire consequences this action, if approved, will have on every member of every single Tribe in these United States. In case you weren't already aware, the Chairman of the Federal Communications Commission (FCC), Ajit Pai, visited the Rosebud Indian Reservation earlier this year. During his visit, not

only was he told of the severe handicaps under which the people on Native American Reservations must live, he was actually able to experience a limited exposure to the lack of cellular telephone coverage on that Reservation. The meeting was friendly enough and the Chairman did seem to appreciate the issues brought to his attention. Sadly, it's been over four (4) months since the Chairman was in South Dakota and, to my knowledge, nothing positive has been accomplished. In fact, quite the opposite appears to be true.

I recall over a decade ago that the FCC appeared before a House Subcommittee and was criticised for delaying a decision because the FCC had not yet obtained the approval for that decision from the large Telephone companies. The House Subcommittee Chairman stated he was unaware that the Federal Government answered to private business. He was under the impression it was private business that answered to the Federal Government. Now, it appears, the FCC is once again placing the needs of private enterprise over the needs of the American people.

It was during the Clinton Administration that serious efforts were made to somehow close the digital divide. That divide existed between the poorest communities in the United States and the rest of America. Although the FCC Lifeline service began in 1985, it didn't have a significant effect for low income families until the Telecom Act of 1996. It's also very important to remember that not all telephone companies made certain that their low income customers were aware of the Lifeline service. For many people living on Native American Reservations, the Lifeline system was brand new to them as late as the closing years of the 20th century. Now, with the advent of inexpensive cellular telephones, many American citizens living in underserved or nonserved areas of telecommunication can finally enjoy telephone service just like everyone else in the United States.

That is until this newly proposed ruling of the FCC goes into effect.

Please, take a moment to read the brief paragraph below. If you desire, please, go to the Internet and learn more about Lifeline and the new proposed rule. But, I caution you, you'd best hurry. If you wait too long, all of what we have struggled to create and maintain together could simply vanish.

Most Respectfully,

Joe RedCloud

On October 26, 2017, the FCC announced plans to eliminate Tribal Lifeline support received by wireless providers on Indian reservations. The FCC is scheduled to vote on this proposal on November 16, 2017. If adopted, this proposal would leave many Indian reservations with no wireless Lifeline service. Existing and planned voice and broadband service offerings on Tribal lands will no longer be available, leaving many Tribal lands without access to affordable telecommunications services. We urge Congress, as our elected representatives, and the FCC who has a fiduciary duty to Indian Tribes, to not implement policies and rules that will harm Native Americans and not adopt the proposed rule to eliminate Tribal Lifeline support for wireless carriers serving Tribal lands.

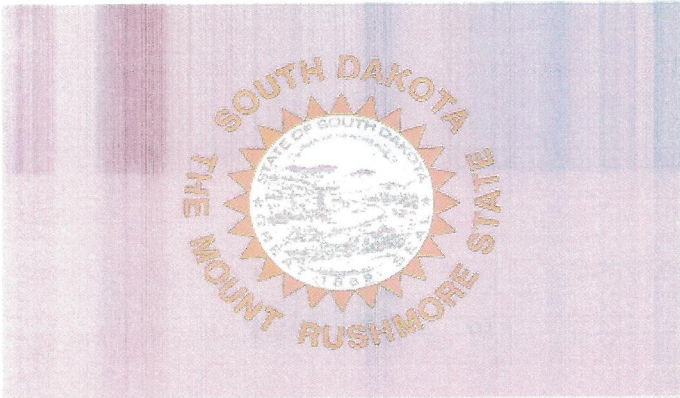
| Name | Phone Number |
|--|------------------|
| FCC Chairman Ajit Pai | 202-418-1000, |
| FCC Commissioner Mignon Clyburn | 202-418-2100 |
| FCC Commissioner Michael O'Rielly | 202-418-2300 |
| FCC Commission Brendan Carr | 202-418-1733 |
| <u>FCC Commissioner Jessica Rosenworcel</u> | 202-418-2400 |
| FCC ONAP Acting Director Lyle Ishida | 202-418-8240 |
| Udall, Tom (NM) re Meagan Foster | 202-224-6621 |
| Hoeven, John (ND) re Emily Tryon | 202-224-2551 |
| Cortez Masto, Catherine (NV) re Trevor Dean | 202-224-3502 |
| <u>Senator Thune (Jeannie Hovland)</u> | 202-224-2321 |
| Mike Andrews, Senate Indian Staff Director | 202-224-2251 |

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Lifeline (/lifeline/) Plans (/plans) Phones (/phones) BYOD (/byod) Activate (/activate)

Support



South Dakota

Lifeline Program

South Dakota is an expansive, sparsely populated midwestern U.S. state where rolling prairies give way to the dramatic Black Hills National Forest. Black Hills is home to 2 historical monuments carved right into towering granite peaks: Mt. Rushmore, the iconic depiction of 4 revered U.S. presidents, and Crazy Horse Memorial, a tribute to the storied Native American tribal leader.

[Click Here For Paper Application \(/pdf/enTouchCertProcess_SD.pdf\)](#)

[Click Here to learn more about the Lifeline \(/about-lifeline\)](#)

APPLY NOW
([HTTPS://WWW.APPLY4LIFELINE.ENTOUCHWIRELESS.COM/HHV/MAIN?PLANID=1240](https://www.apply4lifeline.entouchwireless.com/HHV/MAIN?PLANID=1240))

South Dakota Lifeline Cell Phone Service

enTouch Wireless offers government assisted wireless services to low income families and individuals in South Dakota. Qualified customers receive Free cell phone service. Certain residents may be eligible for a Free cell phone. We offer Lifeline discounts to qualified South Dakota customers who reside in non-rural areas and meet certain eligibility requirements, such as, government assistance or a household income that is at or below 135% of the Federal Poverty Guidelines. Your FREE Lifeline benefit is limited to one per household and cannot be combined with any other Lifeline offer.

| enTouch Wireless Lifeline Free Monthly Minutes | | |
|--|------------------------------|--|
| Feature | 750 Minute Plan ¹ | Tribal Unlimited & 1.5 GIG Plan ² |
| Voice | 750 | Unlimited |
| Texts | Unlimited | Unlimited |
| Local Calls | Y | Y |
| National Long Distance | Y | Y |
| Voicemail | Y | Y |
| Nationwide Text | Y | Y |
| Free 411 | Y | Y |
| 3G / 4G Data | 100 MB | 1.5 GIG |

| | | |
|---------------------------------------|-----------|-----------|
| Always On Low Speed Data [†] | Unlimited | Unlimited |
| Carry Over Month To Month | N | N |

All plans are 30 day plans. All plans subject to Acceptable Use Policy.

¹Plan subject to a 60 day benefit port freeze.

²Plan subject to a 12 month benefit port freeze.

[†]Always On Low Speed Data makes it possible to check email and use text-based apps when your 3G / 4G Data runs out.

Eligible Programs for Lifeline in South Dakota

Supplemental Nutrition Assistance Program (SNAP)

Supplemental Security Income (SSI)

Medicaid

Veterans Pension or Survivors Benefit

Federal Public Housing Assistance (FPHA)

Food Distribution Program on Indian Reservations (FDPIR)

Tribally Administered TANF

Bureau of Indian Affairs General Assistance

Tribally Administered Head Start (*Meeting the income-qualifying standards of Head Start*)

NOTE: All new applicants will need to submit proof of government assistance in order to complete enrollment. There are several easy methods to submit proof eligibility; you will be able to select what method is best for you later in the signup process.

You may also qualify based on income

Income Guidelines*

| Persons in Household | Income |
|----------------------|----------|
| 1 | \$16,281 |
| 2 | \$21,924 |
| 3 | \$27,567 |
| 4 | \$33,210 |
| 5 | \$38,853 |
| 6 | \$44,496 |
| 7 | \$50,139 |
| 8 | \$55,782 |

For 9+ people, Add \$5,643 for each additional person



Pine Ridge Reservation Tribal Land residents only

AT&T Lifeline

If you live on the Pine Ridge Reservation and qualify, you could get no-charge Lifeline service with unlimited talk and text.

To qualify, you must live on the Pine Ridge Reservation, be a tribal member of the Pine Ridge Oglala Sioux Tribe, and either participate in any of the programs listed below or have household income at or below 135% of the Federal Poverty Guidelines (FPG).

- Medicaid (not Medicare)
Supplemental Nutrition Assistance Program
(SNAP or Food Stamps)
Supplemental Security Income (SSI)
Federal Public Housing Assistance (FPHA)
Veterans and Survivors Pension Benefit
Bureau of Indian Affairs (BIA) General Assistance
Tribal Administered Temporary Assistance for
Needy Families (Tribal TANF)
Tribal Administered Head Start
(meeting income qualifying standards)
Food Distribution Program on Indian Reservations
(FDPRI)

Lifeline is a government assistance program and willfully making false statements to obtain the benefit can result in fines, imprisonment, de-enrollment or being barred from the program. Only one Lifeline service is available per household, which is defined as any individual or group of individuals who live together at the same address and share income and expenses. A household is not permitted to receive Lifeline benefits from multiple providers. Violation of the one-per-household limitation constitutes a violation of the Federal Communications Commission's ("FCC") rules and will result in the subscriber's de-enrollment from the program. The service is non-transferable, and only eligible consumers may enroll in the program.

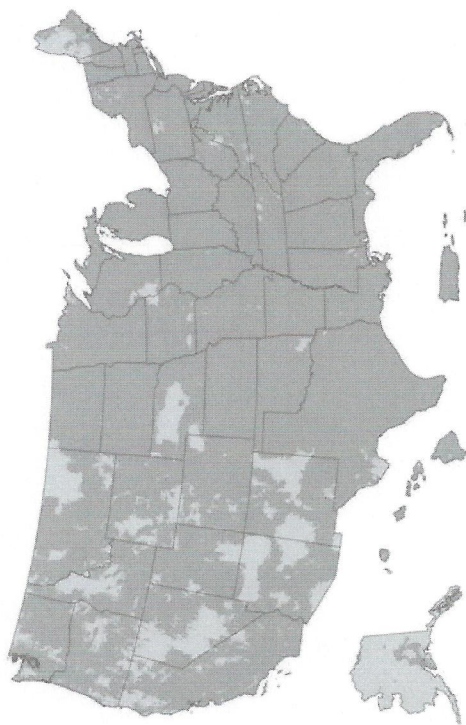
Documentation necessary for enrollment: All subscribers will be required to provide documentation to demonstrate eligibility based on (1) household income at or below 135% of FPG for a household of that size; OR (2) the household's participation in one of the government assistance programs listed above.

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No-charge Lifeline service

Unlimited Talk and Text on the AT&T GoPhone Network in the U.S.

Data packages available at current prepaid rates.*



If you still have questions or would like to receive information by mail, please call a Lifeline Customer Service Representative at 800.377.9450, Monday through Friday between the hours of 10:00 a.m. - 7:00 p.m. CST. You may also visit your Pine Ridge AT&T Mobility store.

Current prepaid data rates available at: att.com/shop/wireless/gophone-plans.

Coverage on the AT&T GoPhone Network in the U.S. GoPhone may be disabled by certain things as towers, obstructions, buildings and other construction, signal strength, network congestion, and other factors. AT&T does not guarantee coverage. Changes will be based on the location of the site receiving and transmitting the call, the location of the subscriber future coverage. As specified above, is conditions on current planning assumption but is subject to change and has not yet been confirmed. The location of the "substituted future coverage." As specified above, is conditions on current planning assumption but is subject to change and has not yet been confirmed.

Terms and Conditions: Uline service is subject to the terms and conditions found in the Sales Brochure and Uline Contract. This Uline Service provided through AT&T GoPhone is also provided by the GoPhone Partner firms and terms of Service located in your device packaging or at [at/atgophone.com](http://atgophone.com). © 2016 AT&T Intellectual Property. All rights reserved. AT&T, the AT&T logo and other marks contained herein are trademarks of AT&T Intellectual Property and/or AT&T affiliated companies. AT&T, the AT&T logo and other marks contained herein are trademarks of AT&T Intellectual Property and/or AT&T affiliated companies.

You are only entitled to the Lifeline service if you actively use it. If you do not use your service for a period of 30 days, you will be notified of your non-usage and if you have still not used the service within the next 15 days, your Lifeline service will be terminated. Usage includes placing calls, receiving calls from anyone other than AT&T or its representative, sending an outgoing text, buying or using data, and notifying AT&T that you wish to continue your AT&T Lifeline service.

Pine Ridge Reservation Tribal Applicants Only, you may obtain and complete an application at the Pine Ridge AT&T store:

AT&T
10018th St. S & Hwy 18
Pine Ridge, SD 57770

Or obtain an application at att.com/mobility-lifeline.

